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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/795,975	03/10/2004	Keisuke Kondoh	33082M198	2216
441	7590	05/25/2005	EXAMINER	
SMITH, GAMBRELL & RUSSELL, LLP 1850 M STREET, N.W., SUITE 800 WASHINGTON, DC 20036			UNDERWOOD, DONALD W	
			ART UNIT	PAPER NUMBER
			3652	

DATE MAILED: 05/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/795,975	KONDOH, KEISUKE
	Examiner Donald Underwood	Art Unit 3652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-12 is/are pending in the application.
  - 4a) Of the above claim(s) none is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-12 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 03/10/04 is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    - a) All    b) Some \* c) None of:
      1. Certified copies of the priority documents have been received.
      2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
      3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>120204</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____                                    |

### **Detailed Action**

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, the phrases "adapted to bend and stretch" bridging lines 5 and 6 and in line 12 render the claim indefinite since they provide no structural recitation but merely desired results. At best each of the main arm mechanism and arm linkage should be recited as comprising at least two links so as to provide structure to support the adapted to clauses. Also "main" in line 11 should be --base--. See base arm in line 8.

Regarding claim 2, "main" in line 5 should be --base--.

Regarding claim 6, the phrase "adapted to bend and stretch" in subparagraphs C2 and C3 renders the claim indefinite. See the above comments regarding claim 1.

Regarding claim 8, this claim appears to be directed to the species in figure 6 or 7 while parent claim 6 is directed to the species in figures 1 or 8. Thus claim 8 is improper since it contradicts claim 6.

Regarding claim 10, this claim is indefinite since it fails to correlate the intermediate main arms together and to correlate the intermediate auxiliary arms together. A phrase similar to --connected together and-- inserted after "arms" in line 1 of subparagraph b3 and, --connected together-- inserted after "arms" in line 2 of subparagraph C3 would obviate this deficiency.

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3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1, 3, 4 and 5 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Japanese reference 62-106168.

5. Claims 1, 3 and 4 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Brogardh.

Note main arm mechanism 5q, 9q, 100 and auxiliary arm mechanism 17q, 21q.

6. Claims 1, 3, 4, 5 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Tsubota, et al.

Note the claim does not require that the main arm mechanism be directly connected to the base and that the auxiliary arm mechanism be directly connected to the pick.

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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8. Claims 10, 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese reference 612-106168 in view of Genov, et al.

It would have been obvious to add links to the linkages in the Japanese reference to enhance the reach in view of the teaching in Genov, column 5, lines 16-20.

9. Sato, et al. teaches using an angled main arm. Note Sato, et al., figure 13.
10. Stoughton, et al. teaches using horizontal and vertical arms to move a pick.
11. Claims 6, 7 and 9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
12. Any inquiry concerning this communication should be directed to D. Underwood at telephone number 571-272-6933.

Underwood/vs  
May 16, 2005

*Donald W. Underwood 05/16/05*  
**DONALD W. UNDERWOOD**  
**PRIMARY EXAMINER**